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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANGEL B. SANCHEZ SANCHEZ,	)	
A[redacted]	)	
Petitioner,	)	**Civil Action No. 2:25-cv-07310**
v.	)	
	)	
PAMELA JO BONDI,	)	**PETITION FOR WRIT OF**
Attorney General of the	)	**HABEAS CORPUS**
United States of America,	)	
	)	
KRISTI NOEM,	)	
Secretary of the Department of	)	
Homeland Security, (DHS),	)	
	)	
TODD LYONS,	)	
Acting Director,	)	
United States Immigration and	)	
Customs Enforcement (ICE), and,	)	
	)	
THE WARDEN OF THE	)	
PHILADELPHIA FEDERAL	)	
DETENTION CENTER	)	
Respondents.	)	
	)	

INTRODUCTION

1. Petitioner Angel Benigno Sanchez Sanchez is a fifty-two-year-old citizen of Ecuador who has resided in this country for approximately twenty-five years and is eligible for adjustment of status in the United States as the father of an active member of the U.S. military. Petitioner is in the physical custody of Respondents at the Federal Detention Center in Philadelphia, Pennsylvania. Petitioner was previously in immigration proceedings, which were dismissed in November 2024 so that he could pursue adjustment of status outside the Immigration Court. He now faces unlawful prolonged detention because the Department of Homeland Security (DHS) rearrested him and placed him again in immigration proceedings without any change in circumstances to justify the rearrest or the opening of new immigration removal proceedings.
2. Petitioner is detained pending his removal proceedings without access to a hearing conducted by a neutral decisionmaker—a federal judge or an immigration judge—to determine whether his detention is warranted based on danger or flight risk, pursuant to the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
3. This decision, which holds that 8 U.S.C. § 1225(b)(2) makes noncitizens like Petitioner who are apprehended in the United States but have never been admitted subject to mandatory detention without a bond hearing, violates the statute. Instead, 8 U.S.C. § 1226(a) applies and authorizes release on bond after a hearing before an immigration judge. The BIA's interpretation conflicts with the plain language and structure of the statute, as well as decades of uncontroverted agency practice. Therefore, the application of § 1225(b)(2) to Petitioner is contrary to law and violates the Immigration and Nationality Act (INA) and the Administrative Procedure Act (APA).

4. In the alternative, if the statute does authorize Petitioner's detention without a bond hearing, it violates his rights to substantive and procedural due process. Detention of all noncitizens who are subject to inadmissibility grounds, like Petitioner, without any individualized hearing does not "bear a reasonable relation to the purpose for which the individual was committed." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Moreover, application of the *Mathews v. Eldridge* balancing test shows that a bond hearing is necessary to protect Petitioner from an unnecessary deprivation of liberty. *See* 424 U.S. 319, 335 (1976).
5. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order Petitioner's release from custody, with appropriate conditions of supervision if necessary. In the alternative, Petitioner requests that this Court conduct or order an immigration judge to conduct a bond hearing at which (1) the government bears the burden of proving flight risk and/or dangerousness by clear and convincing evidence and (2) the reviewing court considers alternatives to detention that could mitigate risk of flight. *See German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213-214 (3d Cir. 2020).

JURISDICTION

6. Petitioner is in the physical custody of the Respondents at the Federal Detention Center in Philadelphia, Pennsylvania.
7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the U.S. Constitution (the Suspension Clause).
8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,

28 U.S.C. § 2201 *et seq.*, and 28 U.S.C. § 1261, the All-Writs Act.

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

10. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

VENUE

11. Venue lies in the U.S. District Court for the Eastern District of Pennsylvania, the judicial district in which Petitioner is currently detained. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973) (finding proper venue lies in the judicial district in which Petitioner is currently detained).

12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Eastern District of New Jersey.

PARTIES

13. Petitioner is Angel Benigno Sanchez Sanchez a fifty-two-year-old citizen of Ecuador who has been detained at the Federal detention Center in Philadelphia since December 18, 2025. He seeks issuance of a writ of *habeas corpus*.

14. The warden of the Philadelphia Federal Detention Center is sued in his official capacity, as he is the Petitioner's actual physical custodian.

15. Respondent Todd Lyons is sued in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement (ICE) the department within the Department of Homeland Security and in this capacity, he is responsible for administering and enforcing the immigration laws in New Jersey and is Petitioner's legal custodian.

16. Respondent Pamela Jo Bondi is sued in her official capacity as the Attorney General of the United States. In this capacity she is responsible for administering and enforcing the immigration laws pursuant to 8 U.S.C. § 1103 and is the Petitioner's legal custodian.

17. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security the agency in charge of administering and enforcing the immigration laws in New Jersey and is the Petitioner's legal custodian.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. Immigr. And Naturalization Svc.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. *See Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *2 (M.D. Pa. Aug. 2020) ("[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential

benchmark which is not compelled by statute.").

19. In making that decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

20. Moreover, the exhaustion "doctrine is not without exception." *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). "Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question." *Id.* at 666-67.

21. Further, the BIA does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att'y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (internal citations omitted). Therefore, any administrative proceedings would be futile because petitioner raises a constitutional due process claim. *Qatanani*, 144 F.4th at 500.

FACTS

22. Petitioner is a citizen of Ecuador who entered the United States on or about March 10, 1998, and has resided continuously in this country since that date.

23. On January 15, 2019, Petitioner was arrested for Driving Under Influence in Upper Darby, Pennsylvania. In May 2019, he was convicted and sentenced to six-month Intermediate Punishment Program.

24. On October 16, 2019, the Petitioner was taken into custody by the Immigration and Customs Enforcement agents shortly after living his house. He was subsequently placed in removal proceedings while detained at the Pike Correctional Facility in Pennsylvania.

25. On November 18, 2019, the Immigration Judge Kuyomars Golparvar granted Petitioner's bond request and set a bond in the amount of $7,500. The next day, Petitioner's bond was posted and Petitioner was released.

26. Petitioner's removal proceedings continued until November until November 2024, when Immigration Judge John Carle agreed to dismiss Petitioner's case so that Petitioner could seek adjustment of status in front of the USCIS.

27. Petitioner is the father of two U.S. citizen children, Daisy Denise Sanchez Tirado (DOB: [redacted]) and Justin Alexander Sanchez Tirado (DOB: [redacted]. Mr. Sanchez Sanchez raised his two children since their birth and maintained physical custody of both children after he separated from his spouse in 2016.

28. Mr. Sanchez Sanchez' daughter, Daisy Denise Sanchez Tirado, is an active service member of the U.S. Army.

29. Mr. Sanchez Sanchez is the beneficiary of an approved Military Parole-in-Place document that allows him to apply for adjustment of status in the United States.

30. On December 18, 2025, after leaving his current place of employment, Mr. Sanchez Sanchez was stopped in traffic by Immigration and Customs Enforcement agents who arrested him and, after processing him at the ICE Office located on 114 N 8th St Philadelphia, PA, 19107, transferred him to the Philadelphia Federal Detention Center, the same facility where Petitioner is currently detained.

LEGAL FRAMEWORK

I. Section 1226(a) Governs the Detention of People Like Petitioner Who are Detained in the United States and Have Not Previously Been Admitted

31. The Immigration and Nationality Act contains several provisions authorizing detention of noncitizens. Section 1226(a) entitles most noncitizens with pending removal proceedings to a hearing before an Immigration Judge to determine whether they should be released on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d). Section 1226(c) creates an exception to section 1226(a) and provides that noncitizens who are removable by virtue of certain criminal convictions must be detained without a bond hearing. Section 1225(b) provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" under (b)(2). Finally, section 1231 governs the detention of noncitizens with a final order of removal.

32. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025). "Upon passing IIRIRA, Congress declared that the new Section 1226(a) 'restates the current provisions in the predecessor statute,'" which allowed noncitizens who entered without inspection to be released on bond. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

33. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained

under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.").

34. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. *Diaz Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, -- F. Supp. 3d --, at *4 (D. Mass. July 24, 2025). That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994).

35. In recent months, Respondents have abruptly changed course. On May 15, 2025, the BIA issued a decision holding that a noncitizen who entered without inspection and was apprehended and paroled near the border was subject to mandatory detention under § 1225(b)(2)(A) when her parole was terminated and she was re-detained. *Matter of Q. Li*, 29 I&N Dec. 66, 70 (BIA 2025).

36. On July 8, 2025, ICE Director Todd M. Lyons issued an internal memorandum stating that, "in coordination with the Department of Justice (DOJ)," DHS had "revisited" its legal position and believed that § 1225, not § 1226, governs the detention of noncitizens who

are present in the United States without having been admitted. *Diaz Martinez*, 2025 WL 2084238, at *4.

37. On September 5, 2025, the BIA followed suit and issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA held that noncitizens "who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." 29 I&N Dec. at 220.

38. The BIA adopted this position despite numerous recent federal court decisions rejecting DHS's position and holding that people who are present without having been admitted are eligible for bond pursuant to § 1226(a).

39. As these decisions explain, the BIA's position in *Matter of Yajure Hurtado* defies the INA. The plain text of the statute shows that § 1226(a), not § 1225(b), applies to people like Petitioner.

40. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." *See Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (describing 1226(a) as the "default rule" for detention of noncitizens pending removal). These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a [] [noncitizen]."

41. The text of § 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Just this year, Congress enacted subparagraph (E) in the Laken Riley Act to exclude certain noncitizens who entered without inspection from § 1226(a)'s default bond provision. Subparagraph (E)'s reference to persons inadmissible under § 1182(6)(A), i.e., persons inadmissible for

entering without inspection, makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

42. Under the BIA's interpretation, all noncitizens subject to inadmissibility grounds are detained without the opportunity for a bond hearing under 8 U.S.C. § 1225(b). *Matter of Yajure Hurtado*, 29 I&N Dec. at 220; *see* 8 U.S.C. § 1182(a)(6) (making people who are present without having been admitted inadmissible); 8 U.S.C. § 1101(a)(14) (defining an admission). Therefore, this interpretation would render all the grounds of mandatory detention in § 1226(c) applying to inadmissible noncitizens, including the recently passed Laken Riley Act, superfluous. *Gomes*, 2025 WL 1869299, at *7; *Rodriguez*, 779 F. Supp. 3d at 1258; *see Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2103) ("[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme."). This statutory structure demonstrates that Congress did not intend to make § 1226(a) inapplicable to all inadmissible noncitizens but rather viewed it as the default bond provision for people arrested within the United States.

43. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez*, 2025 WL 2084238, at *8 ("'[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our

shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.'" (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a [] [noncitizen] seeking to enter the country is admissible." *Jennings*, 583 U.S. at 287.

44. The BIA's interpretation "would render the phrase 'seeking admission' in 8 U.S.C. § 1225(b)(2)(A) mere surplusage." *Lopez Benitez*, 2025 WL 2371588, at *6. That section applies to people who are (1) applicants for admission; (2) seeking admission; and (3) not clearly and beyond a doubt entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A); *Lopez Benitez*, 2025 WL 2371588, at *6; *Diaz Martinez*, 2025 WL 2084238, at *2. The BIA's interpretation makes all applicants for admission subject to mandatory detention, leaving the "seeking admission" criterion unnecessary and violating the rule against surplusage. *Lopez Benitez*, 2025 WL 2371588, at *6; *Diaz Martinez*, 2025 WL 2084238, at *6.

45. Instead, the phrase "seeking admission" indicates that § 1225(b)(2)(A) applies to people who are taking "some sort of present-tense action," in other words, coming or attempting to come into the United States. *Diaz Martinez*, 2025 WL 2084238, at *6; *see also Matter of M-C-D-V-*, 28 I&N Dec. 18, 23 (BIA 2020) (stating that "the use of the present progressive tense . . . denotes an ongoing process"). Therefore, § 1226(a), not § 1225(b)(2)(A), governs the detention of people detained within the United States who are not actively seeking admission, as required by the statute.

46. Applying § 1226(a), rather than § 1225(b), to people detained in the interior who had previously entered without inspection is consistent with the government's longstanding practice, which "can inform a court's determination of what the law is." *Loper Bright*

Enter. v. Raimondo, 603 U.S. 369, 386 (2024). This longstanding practice further counsels against the BIA's abrupt change in policy. *Maldonado*, 2025 WL 2374411, at *11.

47. Finally, as discussed below, the BIA's interpretation of § 1225(b)(2)(A) to mandate detention without a bond hearing for all noncitizens present in the United States without having been admitted presents serious constitutional concerns. Therefore, to the degree that the statute remains ambiguous, the Court should presume that Congress "did not intend the alternative which raises serious constitutional doubts" and reject that construction. *Clark v. Martinez*, 543 U.S. 371, 381-82 (2005). Therefore, § 1226(a), which permits bond hearings, not § 1225(b)(2)(A), which does not, governs the detention of people like Petitioner.

II. The BIA's Application of Mandatory Detention to Noncitizens Like Petitioner Violates Substantive and Procedural Due Process

48. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention."). This fundamental due process protection applies to all noncitizens within the United States, including both removable and inadmissible noncitizens. *See id.* at 693; *Plyler v. Doe*, 457 U.S. 202, 212 (1982); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

49. Absent adequate procedural protections, substantive due process requires a "special justification" that "outweighs the individual's constitutionally protected interest in

avoiding physical restraint." *Zadvydas*, 533 U.S. at 690; *accord, e.g.*, *Torralba v. Knight*, No. 2:25-cv-1366, 2025 WL 2581792, at *12 (D. Nev. Sept. 5, 2025) (describing the standard for a substantive due process violation); *Fernandez v. Lyons*, No. 8:25-cv-506, 2025 WL 2531539, at *4 (D. Neb. Sept. 3, 2025) (same). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. Thus, to withstand constitutional scrutiny, the nature and duration of mandatory immigration detention must be reasonably related to these purposes.

50. In *Demore*, the Supreme Court upheld the constitutionality of § 1226(c) against a facial challenge, specifically citing evidence that had been before Congress about noncitizens with criminal convictions. 538 U.S. at 518-520. This justification does not apply, however, to noncitizens with no criminal record whatsoever who have lived in the community for years. The broad policy set forth in *Matter of Yajure Hurtado* is not reasonably related to the purposes of prevent danger to the community or flight risk and violates substantive due process.

51. Additionally, procedural due process protects noncitizens against deprivation of liberty without adequate procedural protections, including notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1367 (2025); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). In determining the proper procedure to protect a detained noncitizen's procedural due process rights under the Fifth Amendment, courts apply the three-part balancing test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), weighing (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures

used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Black v. Decker*, 103 F.4th 133, 147-48 (2d Cir. 2024); *Gayle v. Warden Monmouth C'ty Corr. Facility*, 12 F. 4th 321, 331 (3d Cir. 2021); *Hernandez-Lara*, 10 F.4th at 28; *Velasco Lopez*, 978 F.3d at 851 (all quoting *Mathews*, 424 U.S. at 335). Here, the BIA's interpretation of the statute to require detention of all people in the United States without having been admitted deprives them of their liberty without any individualized process to determine whether such detention is necessary to prevent flight risk or danger to the community and violates due process.

52. First, the "importance and fundamental nature" of an individual's liberty interest is well-established. *United States v. Salerno*, 481 U.S. 739, 750 (1987); *see also Ashley*, 288 F. Supp. at 670 ("[F]reedom from confinement is a liberty interest of the highest constitutional import."). For people "who can face years of detention before resolution of their immigration proceedings, 'the individual interest at stake is without doubt particularly important.'" *Linares Martinez v. Decker*, No. 18-cv-6527 (JMF), 2018 WL 5023946 at *3 (S.D.N.Y. Oct. 17, 2018).

53. Weighing this factor in *Velasco Lopez*, the Second Circuit found the private interest to be "on any calculus, substantial," observing that the petitioner, "could not maintain employment or see his family or friends or others outside normal visiting hours. The use of a cell phone was prohibited, and he had no access to the internet or email and limited access to the telephone." 978 F.3d at 851-52. Similarly, the First Circuit found a substantial private liberty interest for the petitioner in *Hernandez-Lara*, noting that the petitioner there

was incarcerated "alongside criminal inmates" at a jail where "she was separated from her fiancé and unable to maintain her employment." 10 F.4th at 28.

54. Second, absent any individualized bond hearing, people will be detained despite not being a danger to the community or a flight risk, because there is no mechanism to determine whether their detention is necessary. *See, e.g.*, *Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154, -- F. Supp. 3d --, at *8 (D. Minn. May 21, 2025) (noting that lack of consideration of "individualized or particularized facts . . . increases the potential for erroneous deprivation of individuals' private rights"); *Ashley*, 28 F. Supp. 2d at 670 (finding a procedural due process violation because "the Government has not proved that Petitioner presents an identified and articulable threat to an individual or the community so as to justify his continued detention"). A bond hearing would have significant value because it is designed to assess the individualized facts of each case and determine whether less restrictive measures can fulfill the same goals.

55. Finally, the burden on the government of returning to the longstanding practice of holding bond hearings for people like Petitioner does not outweigh the liberty interest at stake. To the contrary, the government has an interest in "minimizing the enormous impact of incarceration in cases where it serves no purpose." *Velasco Lopez*, 978 F.3d at 854; *see also Hernandez-Lara*, 10 F.4th at 33 (noting that "limiting the use of detention to only those noncitizens who are dangerous or a flight risk may save the government, and therefore the public, from expending substantial resources on needless detention"). Additionally, "unnecessary detention imposes substantial societal costs. . .. The needless detention of those individuals thus separates families and removes from the community breadwinners, caregivers, parents, siblings and employees. Those ruptures in the fabric of

communal life impact society in intangible ways that are difficult to calculate in dollars and cents." *Hernandez-Lara*, 10 F.4th at 33 (citation and internal quotation marks omitted). The cost to the government and society of detaining people unnecessarily for long periods of time is greater than the cost of providing individualized hearings, and weighs in favor of additional procedural protections.

56. At these bond hearings, due process requires that the Government bear the burden of proof by clear and convincing evidence. *See Gayle*, 12 F.4th at 332 ("[W]hen such a severe deprivation is at issue, the Government must bear the burden of proof."). "A standard of proof serves to allocate the risk of error between the litigants and reflects the relative importance attached to the ultimate decision." *German Santos v. Warden Pike C'ty Corr. Facility*, 965 F.3d 203, 213 (citing *Addington v. Texas*, 441 U.S. 418, 423 (1979)). Therefore, when the Third Circuit has ordered a constitutionally-required bond hearing, it is placed the burden on the government by clear and convincing evidence. *German Santos*, 965 F.3d at 214; *Guerrero-Sanchez v. Warden York C'ty Prison*, 905 F.3d 208, 224 & n.12 (3d Cir. 2018), *abrogated on other grounds by Johnson v. Arteaga-Martinez*, 596 U.S. 572 (2022). Other circuit courts have similarly held that due process requires this allocation of the burden in bond hearings for noncitizens like petitioner, who were then detained under § 1226(a). *Hernandez-Lara*, 10 F.4th at 39-40; *Velasco Lopez*, 978 F.3d at 855-56. Thus, even if the statute requires detention without a bond hearing, due process requires a hearing at which the government bears the burden by clear and convincing evidence.

FIRST CLAIM FOR RELIEF
Violation of Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19
Unlawful Denial of Release on Bond

57. Petitioner re-alleges and incorporates by reference the above paragraphs.

58. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

59. The regulation at 8 C.F.R. § 1003.19 lays out bond procedures, and § 1003.19(h)(2) delineates categories of noncitizens who are subject to mandatory detention and not entitled to a bond hearing. The fact that noncitizens within the United States who are subject to inadmissibility grounds are not included on this list shows that the agencies did not intend them to be subject to mandatory detention. The BIA's interpretation thus violates the regulations and unlawfully denies Petitioner a bond hearing.

SECOND CLAIM FOR RELIEF
Violation of the Administrative Procedure Act
Contrary to Law and Arbitrary and Capricious Agency Policy

60. Petitioner re-alleges and incorporates by reference the above paragraphs.

61. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

62. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility.

Specifically, it does not apply to Mr. Sanchez-Sanchez, who entered without inspection and has been living in the United States since 1998. Mr. Sanchez Sanchez was previously apprehended by respondents and released on bond by an Immigration Judge. He was redetained under § 1226(a) and is eligible for release on bond.

63. In taking a contrary position, the BIA has reversed decades of prior practice, and "would expand § 1225(b) face beyond how it has been enforced historically, potentially subjecting millions more undocumented immigrants to mandatory detention, while simultaneously narrowing § 1226(a) such that it would have extremely limited (if any) application." *Lopez Benitez*, 2025 2371588, at *8. Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

64. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

THIRD CLAIM FOR RELIEF
Violation of the Fifth Amendment Due Process Clause
Substantive Due Process

65. Petitioner re-alleges and incorporates by reference the above paragraphs.

66. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Substantive due process requires that immigration detention without a bond hearing be reasonably

related to the goals of ensuring the appearance of noncitizens at future proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

67. The BIA's application of mandatory detention under § 1225(b)(2) is not reasonably related to those goals and thus violates substantive due process. Petitioner is not a danger to the community. His only contact with the law enforcement occurred in 2019, when he was arrested and then placed in a program specifically designated for non-violent first-time offenders that he completed. Since then, Petitioner managed to maintain a clean record. Petitioner appeared to all his immigration court proceedings from 2019 until 2024, when his case was dismissed. There is no change in circumstances that will make now Petitioner more of a risk of flight or a danger to the community than he was in 2019, when an immigration judge granted him bond. To the contrary, he has more incentives to avail himself to the Immigration Court jurisdiction due to having new relief available in the form of Adjustment of Status for parents of members of the U.S. Armed Forces.

FOURTH CLAIM FOR RELIEF
Violation of the Fifth Amendment Due Process Clause
Procedural Due Process

68. Petitioner re-alleges and incorporates by reference the above paragraphs.

69. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Courts apply the *Mathews v. Eldridge* balancing test to determine what procedures the due process clause requires. *Gayle*, 12 F.4th at 331.

70. The first factor is the private interest that will be affected by the official action. *Id.* Here, the deprivation of Petitioner's liberty is a particularly weighty interest. Additionally, Petitioner's financial interest is affected while he is detained.

71. The second factor is the risk of erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional safeguards. *Id.* Here, there is a great risk of unnecessary detention because the BIA's interpretation of the statute does not permit any individualized determination of whether detention during removal proceedings is necessary. *See Ashley*, 288 F. Supp. 2d at 670. At a hearing, Petitioner could show that his detention is not necessary because he is not a danger to the community and has all the incentives to pursue relief in immigration court. Petitioner is gainfully employed, has been paying his taxes, and has been the legal custodian of his U.S. citizen daughter since 2016. A hearing at which the government bears the burden of proof by clear and convincing evidence would protect the substantial liberty interest at stake. *German Santos*, 965 F.3d at 213-14.

72. The final factor is the Government's interest. *Gayle*, 12 F.4th at 331. The government has no legitimate interest in detaining Petitioner when detention is not necessary to ensure appearance at future hearings or protect the community, and less restrictive measures like a reasonable bond would serve those purposes. *Hernandez-Lara*, 10 F.4th at 32-33; *see Ousman D. v. Decker*, No. 20-9646, 2020 WL 5587441, at *4 (holding that due process requires consideration of less restrictive alternatives to detention that would address the government's legitimate purpose); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241-42 (W.D.N.Y. 2019) (same). Therefore, the government does not have an interest in detaining

Petitioner without a bond hearing that outweighs his substantial liberty interest in such an individualized determination.

73. Respondents' detention of Petitioner without any hearing to determine whether that detention is necessary violates procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;

2) Declare that Petitioner's continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

3) Issue a Writ of *Habeas Corpus* and order Petitioner's immediate release from custody;

4) In the alternative, hold a bond hearing at which the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;

5) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

6) Grant such further relief as the Court deems just and proper.

Dated: December 22, 2025

Adriana Mitchell, Esq.
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Attorney for Petitioner

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorneys, and I have discussed the claims with the Petitioner. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 22, 2025

Respectfully submitted,

Adriana Mitchell, Esq.
Attorney for Petitioner